

UNITED STATES COURTS  
SOUTHERN DISTRICT OF TEXAS  
FILED

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

BL SEP 30 2004

Michael H. Hilby, Clerk of Court

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,

Plaintiff,

VS.

W-INDUSTRIES LIMITED, L.P., a/k/a  
W-INDUSTRIES L.L.C.

Defendant.

CIVIL ACTION NO.

**H-04-3808**

JURY TRIAL DEMANDED

**COMPLAINT**

This is an action under Title VII of the Civil Rights Act of 1964, as amended, and Title I of the Civil Rights Act of 1991, to correct unlawful employment discrimination and to provide appropriate relief to Brion Wilson ("Wilson"), who was adversely affected by Defendant's unlawful employment practices. While employed by W-Industries Limited, L.P., a/k/a W-Industries L.L.C., Mr. Wilson was transferred and then terminated because he opposed employment practices reasonably believed to be unlawful under Title VII and because he filed a Charge of Discrimination with the Equal Employment Opportunity Commission.

**JURISDICTION AND VENUE**

1. Pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345, the United States District Court has jurisdiction over the subject matter of this civil action. This action is authorized and instituted pursuant to Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et seq. ("Title VII"), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

2. The unlawful employment practices alleged in this complaint were committed within the jurisdiction of the United States District Court for the Southern District of Texas, Houston Division. Venue is appropriate in this court.

### **PARTIES**

3. Plaintiff, the Equal Employment Opportunity Commission (“EEOC” or “the Commission”), is the agency of the United States of America charged with the administration, interpretation and enforcement of Title VII, and is expressly authorized to bring this action by Section 706(f)(1) and (3) of Title VII, 42 U.S.C. § 2000(e)-5(f)(1) and (3).

4. Defendant, W-Industries Limited, L.P., a/k/a W-Industries L.L.C (“Defendant”), is a Texas limited partnership. Defendant is now doing business (and has continuously been doing business) in the State of Texas, Harris County, and the city of Houston, and has continuously had more than 15 employees at all times relevant to this cause of action.

5. Defendant may be served with process by serving its registered agent T.L. Lynn, 11500 Charles Road, Houston, Texas, 77041.

6. At all relevant times, Defendant has continuously been an employer engaged in an industry affecting commerce within the meaning of Sections 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g) and (h).

### **STATEMENT OF CLAIMS**

7. More than thirty days prior to the institution of this lawsuit, Mr. Wilson filed with the Commission a charge alleging violations of Title VII by Defendant. All conditions precedent to the institution of this lawsuit have been fulfilled, including the filing of a timely charge of employment discrimination, and an attempt to conciliate the matter. Mr. Wilson filed

an initial charge of discrimination with the Commission on May 19, 2003, and an amended charge on October 1, 2003.

8. In May 2003, Defendant engaged in unlawful employment practices in violation of Section 704(a) of Title VII, 42 U.S.C. §2000e-3(a).

9. From the time Mr. Wilson began his employment with Defendant in August 1998 through May 2003, co-workers and supervisors subjected him to unwelcome vulgar comments, sexual propositions and touching of a sexual nature.

10. Mr. Wilson opposed the practices identified in the preceding paragraph, which he reasonably believed to be unlawful under Title VII, through informal protests and internal complaints to supervisors and members of management.

11. On May 13, 2003, Mr. Wilson was escorted off of a work site in Aransas Pass, Texas by Defendant's Superintendent Donald Thomas.

12. Defendant claims Mr. Wilson had become too vocal about the fact he had a lawyer assisting him with a sexual harassment complaint against the company.

13. On May 19, 2003, Mr. Wilson filed a Charge of Discrimination with the Equal Employment Opportunity Commission alleging discrimination on the basis of his sex, male.

14. On May 20, 2003, Defendant called Mr. Wilson back to work, but reassigned him to a less desirable position in its fabrication shop in Houston, Texas.

15. On May 22, 2003, Mr. Wilson was terminated due to his opposition to what he believed were unlawful employment practices and his filing of a Charge of Discrimination with the Equal Employment Opportunity Commission.

16. The effect of the practices complained of in the preceding paragraphs has been to

deprive Mr. Wilson of equal employment opportunities and otherwise adversely affected his status as an employee because he acted in opposition to what he reasonably believed were unlawful employment practices.

17. The effect of the practices complained of in the preceding paragraphs has been to deprive Mr. Wilson of equal employment opportunities and otherwise adversely affected his status as an employee because he filed a Charge of Discrimination with the Equal Employment Opportunity Commission.

18. The unlawful employment practices of which the Commission complains in the preceding paragraphs were intentional.

19. The unlawful employment practices complained of in the preceding paragraphs were done with malice or reckless indifference to the federally protected rights of Mr. Wilson.

**PRAYER FOR RELIEF**

20. Wherefore, the Commission respectfully requests that this Court:

- A. Grant a permanent injunction enjoining Defendant W-Industries Limited, L.P., a/k/a W-Industries L.L.C., and its officers, successors, assigns, and all persons in active concert or participation with them, from engaging in any unlawful retaliation against individuals who oppose employment practices reasonably believed to be unlawful under Title VII, or against individuals who assist, encourage, and/or support others who oppose employment practices reasonably believed to be unlawful under Title VII.
- B. Order Defendant W-Industries Limited, L.P., a/k/a W-Industries L.L.C., to institute and carry out policies, practices, and programs which provide

equal employment opportunities for employees who oppose employment practices reasonably believed to be unlawful under Title VII and employees who assist, encourage, and/or support others who oppose employment practices reasonably believed to be unlawful under Title VII.

- C. Order Defendant W-Industries Limited, L.P., a/k/a W-Industries L.L.C., to make whole Mr. Wilson by providing appropriate back pay with prejudgment interest, in amounts to be proved at trial, and other affirmative relief necessary to eradicate the effects of unlawful employment practices, including but not limited to reinstatement, or, in the alternative, to provide front pay.
- D. Order Defendant W-Industries Limited, L.P., a/k/a W-Industries L.L.C., to make whole Mr. Wilson by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in the preceding paragraphs.
- E. Order Defendant W-Industries Limited, L.P., a/k/a W-Industries L.L.C., to make whole Mr. Wilson by providing compensation for past and future nonpecuniary losses resulting from the unlawful employment practices described in the preceding paragraphs, including emotional pain, inconvenience, and humiliation, in amounts to be determined at trial.
- F. Order Defendant W-Industries Limited, L.P., a/k/a W-Industries L.L.C., to pay Mr. Wilson punitive damages for its malicious and reckless conduct, as described above, in an amount to be determined at trial.

- G. Grant such further relief as the Court deems necessary and proper in the public interest.
- H. Award the Commission its costs of this action.

**JURY TRIAL DEMAND**

The Commission requests a jury trial on all questions of fact raised by its complaint.

Respectfully submitted,

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION

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OF COUNSEL

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION HOUSTON DISTRICT OFFICE

By: Jim Sacher  
Jim Sacher  
Regional Attorney

By: Rose Adewale-Mendes  
Rose Adewale-Mendes  
Supervisory Trial Attorney

ATTORNEYS FOR PLAINTIFF

(Rev. 07/89)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I(a) PLAINTIFFS**

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF \_\_\_\_\_  
(EXCEPT IN U.S. PLAINTIFF CASES)

**DEFENDANTS**

W-INDUSTRIES LIMITED, L.P., a/k/a W-INDUSTRIES L.L.C.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
FILED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Aimee McFerren, Trial Attorney  
EEOC-Houston District Office  
1919 Smith Street, 7th Floor  
Houston, Texas 77002  
(713) 209-3323

BL

SEP 30 2004  
H-04-3808  
N. Milby, Clerk of Court

**II. BASIS OF JURISDICTION**

(PLACE AN x IN ONE BOX ONLY)

- ☒ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☐ 3 Federal Question (U.S. Government Not a Party)  
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES**

(PLACE AN x IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- (For Diversity Cases Only)
- |   |   |   |   |
|---|---|---|---|
| PTF                                     | DEF   | PTF   | DEF   |
| Citizen of This State                   | <input type="checkbox"/> 1 <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4 <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 <input type="checkbox"/> 6 |

**IV. CAUSE OF ACTION** (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

Defendant has engaged in unlawful employment practices in violation of Section 704(a) of Title VII, 42 U.S.C. § 2000e-3(a) and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a. The unlawful practices included transferring and terminating employee Brion Wilson because he opposed employment practices reasonably believed to be unlawful under Title VII and because he filed a Charge of Discrimination with the Equal Employment Opportunity Commission.

**V. NATURE OF SUIT** (PLACE AN x IN ONE BOX ONLY)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<div><div><input type="checkbox"/> 110 Insurance</div><div><input type="checkbox"/> 120 Marine</div><div><input type="checkbox"/> 130 Miller Act</div><div><input type="checkbox"/> 140 Negotiable Instrument</div><div><input type="checkbox"/> 150 Recovery of Overpayment &amp; Enforcement of Judgment</div><div><input type="checkbox"/> 151 Medicare Act</div><div><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)</div><div><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits</div><div><input type="checkbox"/> 160 Stockholders' Suits</div><div><input type="checkbox"/> 190 Other Contract</div><div><input type="checkbox"/> 195 Contract Product Liability</div><div>REAL PROPERTY</div><div><input type="checkbox"/> 210 Land Condemnation</div><div><input type="checkbox"/> 220 Foreclosure</div><div><input type="checkbox"/> 230 Rent Lease &amp; Ejectment</div><div><input type="checkbox"/> 240 Torts to Land</div><div><input type="checkbox"/> 245 Tort Product Liability</div><div><input type="checkbox"/> 290 All Other Real Property</div></div>	<div>PERSONAL INJURY</div> <div><div><input type="checkbox"/> 310 Airplane</div><div><input type="checkbox"/> 315 Airplane Product Liability</div><div><input type="checkbox"/> 320 Assault, Libel &amp; Slander</div><div><input type="checkbox"/> 330 Federal Employers' Liability</div><div><input type="checkbox"/> 340 Marine</div><div><input type="checkbox"/> 345 Marine Product Liability</div><div><input type="checkbox"/> 350 Motor Vehicle</div><div><input type="checkbox"/> 355 Motor Vehicle Product</div><div><input type="checkbox"/> 360 Other Personal Injury Liability</div></div> <div>CIVIL RIGHTS</div> <div><div><input type="checkbox"/> 441 Voting</div><div><input checked="" type="checkbox"/> 442 Employment</div><div><input type="checkbox"/> 443 Housing/Accommodations</div><div><input type="checkbox"/> 444 Welfare</div><div><input type="checkbox"/> 440 Other Civil Rights</div></div>	<div>PERSONAL INJURY</div> <div><div><input type="checkbox"/> 362 Personal Injury--Med Malpractice</div><div><input type="checkbox"/> 365 Personal Injury--Product Liability</div><div><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability</div></div> <div>PERSONAL PROPERTY</div> <div><div><input type="checkbox"/> 370 Other Fraud</div><div><input type="checkbox"/> 371 Truth in Lending</div><div><input type="checkbox"/> 380 Other Personal Property Damage</div><div><input type="checkbox"/> 385 Property Damage Product Liability</div></div> <div>PRISONER PETITIONS</div> <div><div><input type="checkbox"/> 510 Motions to Vacate Sentence</div><div><input type="checkbox"/> 510 Habeas Corpus.</div><div><input type="checkbox"/> 530 General</div><div><input type="checkbox"/> 535 Death Penalty</div><div><input type="checkbox"/> 540 Mandamus &amp; Other</div><div><input type="checkbox"/> 550 Other</div></div>	<div><div><input type="checkbox"/> 610 Agriculture</div><div><input type="checkbox"/> 620 Other Food &amp; Drug</div><div><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881</div><div><input type="checkbox"/> 630 Liquor Laws</div><div><input type="checkbox"/> 640 R.R. &amp; Truck</div><div><input type="checkbox"/> 650 Airline Regs</div><div><input type="checkbox"/> 660 Occupational Safety/Health</div><div><input type="checkbox"/> 690 Other</div></div> <div>LABOR</div> <div><div><input type="checkbox"/> 710 Fair Labor Standards Act</div><div><input type="checkbox"/> 720 Labor/Mgmt. Relations</div><div><input type="checkbox"/> 730 Labor/Mgmt. Reporting &amp; Disclosure Act</div><div><input type="checkbox"/> 740 Railway Labor Act</div><div><input type="checkbox"/> 790 Other Labor Litigation</div><div><input type="checkbox"/> 791 Empl Ret Inc Security Act</div></div>	<div><div><input type="checkbox"/> 422 Appeal 28 USC 158</div><div><input type="checkbox"/> 423 Withdrawal 28 USC 157</div></div> <div>PROPERTY RIGHTS</div> <div><div><input type="checkbox"/> 820 Copyrights</div><div><input type="checkbox"/> 830 Patent</div><div><input type="checkbox"/> 840 Trademark</div></div> <div>SOCIAL SECURITY</div> <div><div><input type="checkbox"/> 861 10A (1395ff)</div><div><input type="checkbox"/> 862 Black Lung (923)</div><div><input type="checkbox"/> 863 DIWC/DIWW (405(g))</div><div><input type="checkbox"/> 864 SSID Title XVI</div><div><input type="checkbox"/> 865 RSI (405(g))</div></div> <div>FEDERAL TAX SUITS</div> <div><div><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)</div><div><input type="checkbox"/> 871 IRS--Third Party 26 USC 7609</div></div>	<div><div><input type="checkbox"/> 400 State Reapportionment</div><div><input type="checkbox"/> 410 Antitrust</div><div><input type="checkbox"/> 430 Banks and Banking</div><div><input type="checkbox"/> 450 Commerce/ICC Rates/etc</div><div><input type="checkbox"/> 460 Deportation</div><div><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations</div><div><input type="checkbox"/> 810 Selective Service</div><div><input type="checkbox"/> 850 Securities/Commodities/Exchange</div><div><input type="checkbox"/> 875 Customer Challenge 12 USC 3410</div><div><input type="checkbox"/> 891 Agricultural Acts</div><div><input type="checkbox"/> 892 Economic Stabilization Act</div><div><input type="checkbox"/> 893 Environmental Matters</div><div><input type="checkbox"/> 894 Energy Allocation Act</div><div><input type="checkbox"/> 895 Freedom of Information Act</div><div><input type="checkbox"/> 900 Appeal of Fed Determination Under Equal Access to Justice</div><div><input type="checkbox"/> 950 Constitutionality of State Statutes</div><div><input type="checkbox"/> 890 Other Statutory Actions</div></div>

**VI. ORIGIN**

(PLACE AN x IN ONE BOX ONLY)

- ☒ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 another district (specify)  
☐ 6 Multidistrict Litigation  
☐ 7 Judge from Appeal to District Magistrate Judgment

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION

**DEMAND \$**

Check YES only if demanded in complaint:

☐ UNDER F.R.C.P. 23JURY DEMAND: ☒ YES ☐ NO**VIII. RELATED CASE(S) IF ANY** (See instructions)

JUDGE

DOCKET NUMBER

DATE 9/30/04 SIGNATURE OF ATTORNEY OF RECORD

Aimee M. Ferren

UNITED STATES DISTRICT COURT